

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 13, 2003 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Jim Keane, Vice Chairman (D)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Rep. Bob Bergren (D)  
Rep. Rod Bitney (R)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Ray Hawk (R)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Gary Matthews (D)  
Rep. Scott Mendenhall (R)  
Rep. Penny Morgan (R)  
Rep. Allen Rome (R)  
Rep. Sandy Weiss (D)  
Rep. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Alberta Strachan, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 179; HB 162; HB 230; HB 127; HB 183

Executive Action: HB 79; HB 179; HB 162 withdrew motion until later date

**HEARING ON HB 179****Opening Statement by Sponsor:**

**REP. GARY MATTHEWS, HD 4, Miles City,** said this bill is by request of the State Auditor's Office and is about improving the captive insurance laws in Montana. Last session we allowed for the formation and operation of captive insurance companies. In 2001 there were 17 states that allowed captive insurance companies. Now there are 22 states that have some form of this insurance law.

***{Tape: 1; Side: A; Approx. Time Counter: 50 - 92}***

**Proponents' Testimony:**

**Jill Gerdrum, State Auditor's Office,** presented testimony on the sponsored captive insurance companies, the reciprocal captive insurance companies and the excess workers' compensation insurance.

**EXHIBIT (buh06a01)**

***{Tape: 1; Side: A; Approx. Time Counter: 92 - 132}***

**Mark Staples, Montana Tavern Association,** said they have 1800 businesses that collectively and individually use workers' compensation and they deal with workers' compensation as a group. There is money should be returned to the individual businesses.

***{Tape: 1; Side: A; Approx. Time Counter: 133 - 146}***

**Dick Brown, Association of Montana Health Care Providers,** provided testimony in support of this bill.

**EXHIBIT (buh06a02)**

***{Tape: 1; Side: A; Approx. Time Counter: 151 - 172}***

**Amy Minto, Captive Coordinator, Big Sky Captive Management,** said during the last year they helped form three captive insurance companies and there are now four captive insurance companies under management. This past year they had an annualized premium base of over \$6 million. This bill will allow the captive insurance law currently on the books to be improved and increase the competitive advantage of the state of Montana with other captive domiciles in the U.S.

***{Tape: 1; Side: A; Approx. Time Counter: 172 - 185}***

**Brenda Olson, Independent Risk Management Consultant, Bigfork,** and has worked in Montana and has worked in the captive industry for 20 years. Montana was stepping forward to provide captive opportunities. Vermont has over 550 captive insurance companies based there. There is \$5 billion in premium volume. The

situation in Montana is increasing insurance costs, etc. If Montana is going to keep small Montana businesses working with cost effective insurance that means that this bill is going to have to be passed. These provisions for a sponsored captive for reciprocals allows small and medium businesses the opportunities to pre-fund their losses in a safe, cost effective way. Insurance companies spent 35-40 cents of every premium dollar on overhead, profit to their shareholders.

***{Tape: 1; Side: A; Approx. Time Counter: 185 - 240}***

**Bob Worthington, CEO, Montana Municipal Insurance Authority**, said the MMIA is a self insurance organization which insures 118 cities and towns in the state. They are a participant in a captive insurance company.

***{Tape: 1; Side: A; Approx. Time Counter: 240 - 258}***

**Roger McGlenn, Executive Director, Independent Insurance Agents of Montana**, said they supported the bill in the last session to create the captive opportunity. This is an important tool for the Montana insurance consumers.

***{Tape: 1; Side: A; Approx. Time Counter: 258 - 266}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GALLIK** asked Ms. Gerdrum if she could explain the term "captive" and she said a company forms a captive in order to insure its own liabilities and property. The company would insure the risks of the parent and not the general public.

***{Tape: 1; Side: A; Approx. Time Counter: 271 - 338}***

**REP. MORGAN** asked Ms. Gerdrum how a person would go about acquiring captive insurance and who he would contact. She said she knew of companies that are interested in it. **Ms. Gerdrum** said interested parties could contact her company for information.

***{Tape: 1; Side: A; Approx. Time Counter: 339 - 420}***

**Closing by Sponsor:**

The Sponsor closed.

**CHAIRMAN MCKENNEY** turned the chair over to **VICE-CHAIRMAN STEINBEISSER**.

**HEARING ON HB 162****Opening Statement by Sponsor:**

**REP. TIM CALLAHAN, HD 43, Great Falls**, said revenues to the gambling license fee account are generated through licenses and permits for gambling operators, machines, and other gambling activities, as well as license fees for video gambling machine manufacturers/distributors. The majority of the revenue in this account comes from the license fee for video gambling machines. By statute, the department is to charge \$200 for each video gambling machine permit and \$25 for each machine where ownership is transferred. Revenue to the gambling license fee account for 50 percent of the gambling machines permit fee and the other 50 percent goes to local governments.

**{Tape: 1; Side: A; Approx. Time Counter: 338 - 445}**

**Proponents' Testimony:**

**Gene Huntington, Administrator, Gambling Control Division, Department of Justice**, explained the bill and the fiscal note.  
**{Tape: 1; Side: A; Approx. Time Counter: 446 - Tape: 1, Side: B; Approx. Time Counter 49}**

**Mark Staples, Montana Tavern Association**, said they believe in good regulation and they asked the department to come to their convention. He agreed to accept the fee increases.  
**{Tape: 1; Side: B; Approx. Time Counter: 50 - 67}**

**Rich Miller, Executive Director, Gaming Industry Association** said they support this bill.  
**{Tape: 1; Side: B; Approx. Time Counter: 70 - 74}**

**Rhonda Carpenter, Montana Coin Machine Operators Association**, stated their organization leased machines to the tavern owners said they support the bill. The number of machines in Montana decrease every year. Correlating costs to the department have not gone down.  
**{Tape: 1; Side: B; Approx. Time Counter: 88 - 93}**

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GALVIN-HALCRO** asked Mr. Huntington about the division of the money from fees.

***{Tape: 1; Side: B; Approx. Time Counter: 93 - 114}***

**REP. MENDENHALL** asked Mr. Huntington about the options on the budget increase and he was given a breakdown of the fees.

***{Tape: 1; Side: B; Approx. Time Counter: 114 - 142}***

**REP. GALLIK** questioned Mr. Huntington, regarding this fund and the financial toll, in light of the current deficit situation.

***{Tape: 1; Side: B; Approx. Time Counter: 144 - 189}***

**REP. LAWSON** asked Mr. Huntington for some figures for the decreasing machines.

***{Tape: 1; Side: B; Approx. Time Counter: 190 - 214}***

**REP. MORGAN** asked Mr. Huntington about where the extra \$5 was given to.

***{Tape: 1; Side: B; Approx. Time Counter: 215 - 229}***

**CHAIRMAN MCKENNEY** questioned Mr. Huntington about fees for the regulation of the industry to finance their department. When local government and state government are reviewed, local government gets part of the 15% gross receipts tax and that tax has been growing. He said the funds to support this regulatory and tax collection program has actually been flat declining. Until last session 2/3 of the money collected went to local government and 1/3 to State government. Now it all goes to the general fund to be redistributed to local governments. That is one of the reasons that local governments have done fairly well in terms of growth because they historically have received 2/3 of that tax.

***{Tape: 1; Side: B; Approx. Time Counter: 230 - 261}***

**Closing by Sponsor:**

The Sponsor closed.

**HEARING ON HB 230****Opening Statement by Sponsor:**

**REP. RON ERICKSON, HD 64, Missoula,** said this bill was an act providing that an employer may pay wages due in the ensuing pay period when an employee submits a time sheet after the employers deadline for processing time sheets for a particular pay period.

eliminating archaic language providing that wages owed to employees who are absent from work on the regular pay date must be paid at any time after the date of regular payment, and providing that the law is inapplicable to certain employees who by custom receive wages monthly.

**{Tape: 1; Side: B; Approx. Time Counter: 236 - 338}**

**Proponents' Testimony:**

**Bill Woody, President/Owner, Nightingale Nursing Service**, said they provide in-home health care and they have a number of different areas they work in at the homes of their clients. They don't always know the schedules their employees work. Because of this they ran 30 different payrolls. They would like to pay their employees during the next regular pay period which would not necessarily create a hardship; and if it does, It is a one-time issue and the employee would learn to turn in their time sheets on time.

**{Tape: 1; Side: B; Approx. Time Counter: 371 - 402}**

**Dan Keith, Administrator, Home Health of Montana, Missoula**, said it gets very inefficient to be trying to pay people late.

**{Tape: 1; Side: B; Approx. Time Counter: 402 - 416}**

**Opponents' Testimony:** None

**Informational Testimony:**

**John Andrew, Department of Labor & Industry**, stated that when the department saw this bill they asked Legislative Services to specifically take out the existing section which talked about provisions of this section do not apply to any professional supervisor or technical employee who by customs receives their wages on at least a monthly basis.

**{Tape: 1; Side: B; Approx. Time Counter: 339 - 370}**

**Questions from Committee Members and Responses:**

**REP. MAEDJE** questioned **REP. LAWSON** on language of the bill.

**{Tape: 1; Side: B; Approx. Time Counter: 416 - 500}**

**REP. BOOKOUT-REINICKE** asked Mr. Andrew if with this terminology, couldn't a company withhold pay just to be punitive. He said they would need to pay the wages in the ensuing pay period.

**{Tape: 2; Side: A; Approx. Time Counter: 1 - 16}**

**CHAIRMAN MCKENNEY** asked Mr. Andrew who referred the question to **Mr. Campbell** to answer a clarification question. Mr. Campbell

said in subsection 1 it seems to indicate in line 20 they may not withhold from any employee any wages earned or unpaid for a period of longer than 10 business days. He asked if this bill would mean that they must pay within 10 business days unless they are allowed to use the new subsection 3 that would say the employer could pay within the next ensuing pay period. **Mr. Andrew** said the new 10 business day provision is still in there and there would be the special exception to that. This would be the trigger in the event the employee did fail to turn in their time card.

**{Tape: 2; Side: A; Approx. Time Counter: 16 - 44}**

**Closing by Sponsor:**

The Sponsor closed.

**HEARING ON HB 127**

**Opening Statement by Sponsor:**

**REP. NANCY RICE FRITZ, HD 69, Missoula**, stated the Montana Unfair Trade Practice Consumer Protection Act of 1973 has helped the consumers and businesses for the last 30 years. While the law still works beautifully, some of the fine amounts and concepts need touching up. This bill will clarify this.

**{Tape: 2; Side: A; Approx. Time Counter: 45 - 77}**

**Proponents' Testimony:**

**Cort Jensen, Consumer Protection Office, Department of Administration**, said the penalties are a little bit behind the times. The private rights of action need to be slightly expanded.

**EXHIBIT (buh06a03)**

**{Tape: 2; Side: A; Approx. Time Counter: 77 - 248}**

**Sam Sperry, AARP**, said this bill addresses a number of issues that are raised in their membership survey; they are willing to work with members of the committee and the department.

**EXHIBIT (buh06a04)**

**{Tape: 2; Side: A; Approx. Time Counter: 224 - 319}**

**Opponents' Testimony:**

**Dwight East, Farmers Insurance Group Companies**, said they arose in opposition in a qualified manner. The only item of this bill they have concerns with is the repealer in section 29. The

Auditor's Office has some concerns about it also. There was an opportunity to offer an amendment which would re-codify to some degree. Leave this protection in for all Montanans. If one person is able to get rebates, somewhere along the line, that price is passed along in the form of higher glass bills.

**{Tape: 2; Side: A; Approx. Time Counter: 319 - 367}**

**Mona Jamison, General Motors**, said she had a qualified opposition to this bill. There are many different statutes that are being amended. Certain sections need to be clarified.

**{Tape: 2; Side: A; Approx. Time Counter: 368 - 469}**

**Steve Turkiewicz, Montana Auto Dealers Association**, stated he thought the provisions on the new car lemon law and changes them are a concern. They think this is a very important change in Montana law and needs more looking into. The amendment brought forward is something that they think is a positive aspect of the bill.

**{Tape: 2; Side: A; Approx. Time Counter: 469 - Tape: 2; Side: B; Approx. Time Counter: 16}**

**Webb Brown, Montana Chamber of Commerce**, said trouble damages and civil action are an important factor but the inclusion of the proposed amendments would make good legislation.

**{Tape: 2; Side: B; Approx. Time Counter: 16 - 26}**

**Riley Johnson, National Federation of Businesses**, said their members are very small businesses. This bill has so many questions in it. Trying to revise or edit out some of the good and keeping some of the bad is going to be difficult. In that case they rise in opposition to this bill. Some of the consumer protection laws should be considered.

**{Tape: 2; Side: B; Approx. Time Counter: 26 - 73}**

**Ross Cannon, Direct Marketing Association**, (which is the National Trade Association) said this bill had "a lot of sweeping changes in it." He said his industry tries to be reasonable but as this bill stands they will not take a position on either of them. They thought it would have been far better had the department called the together the affected interests and discussed these matters by hearing the industry's side of things. He also thought this bill should be sent out on an interim study or kill it here.

**{Tape: 2; Side: B; Approx. Time Counter: 73 - 156}**

**Greg Van Horssen, State Farm Insurance Company**, said they had a concern about the repeal in section 29. This a section of the law prohibits glass shops from faulty billing of a claim. This



section needs to stay someplace in the law where regulators has authority over that business.

**{Tape: 2; Side: B; Approx. Time Counter: 156 - 200}**

**John Cadby, Montana Banker's Association**, said sections of this bill should be restored into their original wording. He urged the committee to remove the telemarketing sections completely since there are other bills regarding this matter.

**{Tape: 2; Side: B; Approx. Time Counter: 200 - 240}**

**Informational Testimony:**

**Angela Huschka, Deputy Insurance Commissioner, State Auditor's Office** said she was providing testimony for her department regarding regulation of the auto glass dealers.

**{Tape: 2; Side: B; Approx. Time Counter: 240 - 257}**

**Questions from Committee Members and Responses:**

**REP. GALLIK** asked **Mr. Jensen** what his thinking on the repealer was on the glass provision. He said it was not that he opposed having this in the law, it should just work and possibly be put into another section of the law. When there are laws like that they can't be enforced.

**{Tape: 2; Side: B; Approx. Time Counter: 257 - 308}**

**REP. KEANE** stated to **Mr. Jensen** that this bill had significant problem and questioned the consensus of the bill. He said he was the only lawyer in his office. He said he was aware of many of the objections to the bill as it was being drafted.

**{Tape: 2; Side: B; Approx. Time Counter: 308 - 363}**

**REP. MATTHEWS** asked **Mr. Jensen** if this is a bill that could be referred to an interim committee and **Mr. Jensen** agreed.

**Closing By Sponsor:**

The Sponsor closes.

**CHAIRMAN MCKENNEY** requested **HB 130** be placed into a sub-committee with **REP. BITNEY** to chair and **REPS. MATTHEWS** and **MENDENHALL** also contact the interested persons. A report back to the committee is requested for Tuesday, January 21, 2003.

**HEARING ON HB 183**

**Opening Statement by Sponsor:**

**REP. DON STEINBEISSER, HD 100, Sidney,** said this bill provides the health insurance clause. The State Auditor's Office receives numerous complaints every year from consumers that have not been properly notified of their health insurance rate increases, benefits, or cancellations of their health coverage. The purpose of this bill is to require consistence among various types of insurers, thereby simplifying the process for consumers and insurers. It also clarifies the time requirements for issuance of Certificates of Credible Coverage which explains consumers' portability rights when group coverage begins.

**{Tape: 2; Side: B; Approx. Time Counter: 363 - Tape: 3; Side A; Approx. Time Counter: 15}**

**Proponents' Testimony:**

**Claudia Clifford, State Auditor's Office,** said due to the various kinds of complaints, they receive about 35,000 and handle about 3,000-4,000 different kinds of consumer issues. She then presented a synopsis of the various notice revisions in the bill and also some proposed amendments.

**EXHIBIT (buh06a05)**

**EXHIBIT (buh06a06)**

**{Tape: 3; Side: A; Approx. Time Counter: 15 - 147}**

**Sam Sperry, AARP Montana,** said this bill is reasonable for the Montana consumer to expect to receive enough notice that when changes occur in their insurance products, they have time to plan for other options or to obtain other services. This is especially trying when rates increase. Insufficient notice of changes can have especially negative impact on seniors living on fixed or limited income.

**EXHIBIT (buh06a07)**

**{Tape: 3; Side: A; Approx. Time Counter: 147 - 176}**

**Tonya Ask, Blue Cross/Blue Shield of Montana,** said she supported this bill including the amendments proposed.

**{Tape: 3; Side: A; Approx. Time Counter: 176 - 230}**

**Riley Johnson, National Federation of Independent Businesses,** said they rise in support of this bill. If a customer has a dramatic rise in a premium or cancellation, it takes a small business a long time to reflect this information to the client. The 60-day option should remain in the bill.

**{Tape: 3; Side: A; Approx. Time Counter: 230 - 252}**

**Keith Colbo, New West Health Care**, referred to the 15-day cancellation of premium.

**{Tape: 3; Side: A; Approx. Time Counter: 252 - 263}**

**Opponents' Testimony:**

**Frank Cote, Health Insurance Association of America**, said he does not oppose the intent of this bill and the amendments. The only other concern they have in this bill is the requirement that the Certificate of Creditable Coverage be filed with the department.

**{Tape: 3; Side: A; Approx. Time Counter: 263 - 301}**

**Informational Testimony:**

**Terrilee Stoltz, Thompson Falls Bread & Breakfast**, provided information testimony.

**EXHIBIT (buh06a08)**

**Questions from Committee Members and Responses:**

**REP. WILSON** asked Claudia Clifford for the rational for when there is a change of conditions for insurance that the group policy holder gets 60 days advance notice and an individual policy holder gets 45 days. **Ms. Clifford** said it was their feeling that it was more difficult for a small businesses especially to shop around for insurance and it is a little easier for individuals.

**{Tape: 3; Side: A; Approx. Time Counter: 301 - 318}**

**REP. GALLIK** asked Claudia Clifford her to give him information with regard to the new form that must be approved prior to use. She said the rates are filed for use. They must have prior approval before the are used.

**{Tape: 3; Side: A; Approx. Time Counter: 318 - 350}**

**REP. KEANE** questioned Ms. Clifford in relation to new section 3. He asked how the notification would be determined if a person had insurance from one employer with whom he had coverage and obtained a new job which did not have insurance but he had coverage with the previous employer. She said they don't regulate the policies to Taft Hartley Trust. State law does not apply to them. The employer will get the notice 15 days in advance for nonpayment and the bill will now require that the employees be notified that their employer coverage was cancelled.

**{Tape: 3; Side: A; Approx. Time Counter: 350 - 412}**

**REP. MAEDJE** asked **Ms Clifford** about a notice of cancellation. She said if this continues there will a certain date the coverage will end, and then the employee is notified of the cancellation.

She said they wanted to give the employer plenty of time to work through their problems.

*{Tape: 3; Side: A; Approx. Time Counter: 412 - 500}*

Closing By Sponsor:

The Sponsor closed.

EXECUTIVE ACTION ON HB 79

*{Tape: 4; Side: A; Approx. Time Counter: 1 - 27}*

Motion: REP. BOOKOUT-REINICKE moved HB 79 DO PASS.

Motion: REP. BOOKOUT-REINICKE moved AMENDMENTS.

Discussion:

REPS. MAEDJE, JACKSON, MATTHEWS, GALLIK, KEANE and BOOKOUT-REINICKE discussed the amendments.

Vote: A roll call vote on the amendments was taken with 16 voting yes and 2 voting no with REPS. GALLIK and WILSON voting no.

Motion/Vote: REP. REINICKE-BOOKOUT moved HB 79 DO PASS AS AMENDED. Motion carried 10-8, with REPS. KEANE, BERGREN, FRITZ, GALLIK, GALVIN-HALCRO, MATTHEWS, WEISS and WILSON voting no.

REP. KEANE requested that HB 169 be delayed for Executive Action to allow further review of forthcoming amendments.

*{Tape: 4; Side: A; Approx. Time Counter: 27 - 32}*

EXECUTIVE ACTION ON HB 72

*{Tape: 4; Side: A; Approx. Time Counter: 40 - 120}*

Motion: REP. MENDENHALL moved HB 72 DO PASS.

Motion: REP. MENDENHALL moved HB 72 AMENDMENTS.

Discussion:

REP. LAWSON discussed the amendments with Mr. Campbell.

Vote: Motion carried 18-0.

Motion/Vote: REP. MENDENHALL moved HB 72 DO PASS AS AMENDED.  
Motion carried 18-0.

EXECUTIVE ACTION ON HB 179

*{Tape: 4; Side: A; Approx. Time Counter: 120 - 131}*

Motion/Vote: REP. MORGAN moved HB 179 DO PASS. Motion carried  
unanimously.

EXECUTIVE ACTION ON HB 162

*{Tape: 4; Side: A; Approx. Time Counter: 131 - 218}*

Motion: REP. GALVIN-HALCRO moved HB 162 DO PASS.

Discussion:

REPS. MENDENHALL, MORGAN GALVIN-HALCRO, and LAWSON discussed the  
bill.

REP. GALVIN-HALCRO withdrew the motion.

**ADJOURNMENT**

Adjournment: 11:40 A.M.

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REP. JOE MCKENNEY, Chairman

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ALBERTA STRACHAN, Secretary

JM/AS

**EXHIBIT** (buh06aad)